

Remarks

Claims 1 and 3-19 are pending in the application. Claim 2 has been canceled without prejudice. The Applicants expressly reserve the right to prosecute in subsequent divisional applications or continuing applications or both claims covering the subject matter of the claim canceled to conform with the Applicants' election in response to the Restriction Requirement. 35 U.S.C. §§ 120-121.

Claims 1 and 13 have been amended. Support for the claim amendments can be found throughout the application, including the claims as originally filed. Importantly, no new matter has been added to the claims. The amendment to the claims should not be construed to be an acquiescence to any of the rejections. The amendments to the claims are being made solely to expedite the prosecution of the above-identified application. The Applicant reserves the right to further prosecute the same or similar claims in subsequent patent applications claiming the benefit of priority to the instant application. 35 USC § 120.

Response to Rejections under 35 U.S.C. § 102(b)

Claims 1-3, 7, 8, and 13-16 stand rejected under 35 U.S.C. § 102(b) based on the Examiner's contention that they are anticipated by the French reference (FR 2769850). The Applicants respectfully traverse this rejection.

The Applicants respectfully submit that the rejection of claim 2 has been rendered moot by its cancellation. Regarding claims 1, 3, 7, 8, and 13-16, the claims as amended require that the gas flow through the filter in a downward manner. Support for this amendment can be found in Figure 4, canceled claim 2, and page 4, paragraph 29, of the specification. FR 2769850 discloses a tubular filter comprising activated carbon that is inserted vertically into a septic vent. By this arrangement the at least one filter is not disposed in a downward-facing aperture as required by the amended claims. Rather the gas from the septic tank enters the filter from below and exits from above the filter. To be an anticipatory reference, a single reference has to disclose each and every element of the claim. Because FR 2769850 does not disclose at least one filter in a downward-facing

aperture, FR 2769850 does not disclose each and every element of the amended claims and, therefore, can not anticipate claims 1, 3, 7, 8, and 13-16.

Claims 1-3, 7, 8 and 13-16 stand rejected under 35 U.S.C. 102(b) based on the Examiner's contention that they are anticipated by Oldham (U.S. Patent No. 4,649,677). The Applicants respectfully traverse this rejection. The Applicants respectfully submit that the rejection of claim 2 has been rendered moot by its cancellation. Regarding claims 1, 3, 7, 8, and 13-16, the claims as amended require that the gas flow through the filter in a downward manner. Oldham discloses a septic system where gas flows upward and then horizontally through a filter. Oldham does not disclose a vent system where gas flows through at least one filter in a downward-facing aperture as required by the amended claims. To be an anticipatory reference, a single reference has to disclose each and every element of the claim. Because Oldham does not disclose at least one filter in a downward-facing aperture, Oldham does not disclose each and every element of the amended claims and, therefore, can not anticipate claims 1, 3, 7, 8, and 13-16.

Accordingly, the Applicants respectfully request the withdrawal of the rejection of the claims under 35 U.S.C. § 102(b).

The Applicants acknowledge that now canceled claim 2 was included in the Examiner's 35 U.S.C. § 102(b) rejection over FR 2769850 and Oldham, and that claim 2 included the downward-facing aperture limitation now in claim 1 by amendment. However, in the Examiner's previous office action it was not addressed where this limitation was disclosed in FR 2769850 and Oldham. The Applicants respectfully request that if the Examiner maintains the 35 U.S.C. § 102(b) rejection of the claims over FR 2769850 and Oldham that he identify this limitation in the cited references.

Response to Rejections under 35 U.S.C. § 103(a)

Claims 4-6 stand rejected under 35 U.S.C. § 103(a) based on the Examiner's contention that they are obvious over FR 2769850. The Applicants respectfully traverse this rejection. Claims 4-6 ultimately depend on amended claim 1 and therefore include the limitation that the at least one filter is disposed in a downward-facing aperture. As stated in the previous section, FR 2769850 does not disclose a vent system where the at

least one filter is disposed in a downward-facing aperture. Further, it would not have been obvious from FR 2769850 to prepare a vent system where the gas flows through the filter from above to below, because FR 2769850 is drawn to a vent system where gasses flow upward and out of an enclosed space through a grid at the top of the vent. The grid is there no doubt to prevent debris and precipitation from entering the septic system. The present invention relates to a vent where the aperture faces downward and therefore makes such a grid unnecessary. Also, the downward-facing aperture allows the aperture to remain hidden. It would not have been obvious to one of ordinary skill in the art to place a filter in a downward-facing aperture from the teachings of FR 2769850, because there is no motivation to reconstruct the architecture of its vent system.

Claims 9-12 and 17-18 stand rejected under 35 U.S.C. 103(a) based on the Examiner's contention that they are obvious over FR 2769850 in view of German Patent DT 2617364. The Applicants respectfully traverse this rejection. Claims 9-12 ultimately depend on amended claim 1 and claims 17-18 ultimately depend on amended claim 13 and therefore include the limitation that the at least one filter is disposed in a downward-facing aperture. As stated in the previous section, FR 2769850 does not disclose a vent system where the at least one filter is disposed in a downward-facing aperture. German Patent DT 2617364 discloses a decorative vent sealingly attached to a septic tank. Neither reference alone or when combined teaches a septic vent where the filter is placed in a downward-facing aperture. As stated before, placing the filter in a downward-facing aperture allows the vent to be decorative and effective in keeping debris from entering the septic tank. It would not have been obvious to one of ordinary skill in the art to make a vent like this from FR 2769850 and German Patent DT 2617364, because the vent of FR 276950 was not meant to be hidden and the vent of German Patent DT 2617364 does not teach the use of a filter in a downward facing aperture or anywhere else. Therefore, the Applicants respectively submit that claims 9-12 and 17-18 as they now depend upon amended claims 1 and 13, respectively, are not rendered obvious by FR 2769850 in view of German Patent DT 2617364.

Accordingly, the Applicants respectfully request the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a).

Fees

The Applicants believe that no additional fees are due in connection with the filing of this paper. Nevertheless, the Director is hereby authorized to charge any additional required fee to our Deposit Account, **06-1448**.

Conclusion

In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicants' Agent would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Respectfully submitted,
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